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# MINING and MINING CLAIMS in NATIONAL FOREST WILDERNESSES

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FOREST SERVICE
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Cover photo: Napeequa River Valley, Glacier Peak Wilderness

# MINING and MINING CLAIMS
# in
# NATIONAL FOREST WILDERNESSES

The authority for mining in the National Forest Wildernesses is the Wilderness Act of Sept. 3, 1964 (Public Law 88-577) and the Code of Federal Regulations (Title 36, Chapter II). The most common questions that are asked about mining and mining claims in National Forest Wildernesses have been compiled and answered in this booklet. In addition, pertinent excerpts from the above-mentioned law and regulation, and a map and listing of Wildernesses and Primitive Areas are included.

## WHAT IS MEANT BY NATIONAL FOREST WILDERNESS?

The purpose of the Wilderness Act (Public Law 88-577, 78 Stat. 890) is clear. It is to ". . . secure for the American people of present and future generations the benefits of an enduring resource of wilderness." The Act defines wilderness as ". . . an area where the earth and its community of life are untrammeled by man . . . an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements . . . protected and managed so as to preserve its natural conditions . . . with the imprint of man's work substantially unnoticeable . . .". These areas " . . . shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use."

## HOW DO I KNOW WHEN I AM IN A NATIONAL FOREST WILDERNESS?

Maps showing the Wildernesses on the various National Forests are available at the Supervisor's Office or Ranger Stations of the particular Forest or from the Regional Offices of the Forest Service. Also, the boundaries are posted along the trails leading into the Wildernesses.

## MAY I ENTER A WILDERNESS AND PROSPECT FOR MINERALS?

Yes, if such activity is carried on in a manner compatible with the preservation of wilderness environment and as prescribed by the Wilderness Act.

## MAY I LOCATE MINING CLAIMS IN A WILDERNESS?

Yes, until midnight December 31, 1983.

## WHAT METHODS OF PROSPECTING MAY I USE IN MY SEARCH FOR MINERALS IN A WILDERNESS?

Most ordinary methods of prospecting are applicable; however, because of the effect of prospecting on the Wilderness, limitations have been placed on the size of excavations that can be made and controls are in force on the use of mechanized equipment. Prospecting permits are required where the limitations will be exceeded and/or mechanical equipment is expected to be used.

## WHEN DO I NEED A PROSPECTING PERMIT?

You must have a prospecting permit in order to do the following:

1. To use motorized equipment on the site or to transport it to the site by helicopter for prospecting use.

2. To dig one or more excavations which singly or collectively exceed 200 cubic feet within any area which can be bounded by a rectangle containing 20 surface acres.

3. To use overland mechanical means or helicopter to transport personnel to or from the mineralized site.

## UNDER WHAT CIRCUMSTANCES MAY I TRANSPORT PROSPECTING PERSONNEL BY HELICOPTER OR OTHER MECHANICAL MEANS WITHIN A WILDERNESS?

A satisfactory showing of need must be made, based on the following:

1. It must be evident from aerial overflight, or study of available geologic information and/or aerial geophysical reconnaissance activities, that on-the-ground investigation is warranted.

2. It must be shown that a prospector (of average physical ability) cannot walk or ride a horse from his campsite to the prospecting area in a short enough period of time (2 hours) to allow him a reasonable working day at the prospecting site.

## AT WHAT STAGE OF PROSPECTING SHOULD I STAKE A MINING CLAIM?

The location of your claim should be made when you believe the evidence you have gathered—such as a mineral exposure, geologic indications, geophysical and/or geochemical information—indicates there is a reasonable chance that a valuable mineral deposit is present at a particular site.

## WILL I BE GRANTED A PERMIT IF I PLAN TO MAKE AN EXCAVATION GREATER THAN 200 CUBIC FEET PER 20 ACRES AND/OR I WANT TO USE MECHANIZED EQUIPMENT OR TRANSPORTATION?

Whether or not you obtain a permit (permission) to make the excavation or use mechanical equipment or transportation depends on the caliber of mineral showings present and whether such an excavation or use of mechanized equipment is essential to exploring the showings.

## WHO WILL DETERMINE IF MY MINERAL SHOWING JUSTIFIES THE EXCAVATION OR USE OF MECHANIZED EQUIPMENT OR TRANSPORTATION AND IF EITHER OR BOTH IS ESSENTIAL?

A qualified Forest Service mining engineer will examine the mineral showing and/or geologic information, preferably in your company or in the company of a person representing you, and make a report of the mineral examination, with conclusions and recommendations, to the Forest Supervisor.

## WILL THE MINING ENGINEER TELL ME HIS OPINION OF MY MINERAL SHOWING?

The mining engineer is free to discuss the mineral aspects of your prospect with you. He cannot function in the capacity of a consultant to you, as this would be placing a Government mining engineer in competition with private consultants, counter to the principles of private enterprise.

## HOW DO I FILE A MINING CLAIM LOCATED IN A WILDERNESS? IS THE PROCESS THE SAME AS FOR OTHER PUBLIC LANDS?

The staking and location procedure is the same as for other public land open to mineral entry, except that within 30 days after locating a claim you must file a written notice of the location of that claim and your Post Office address with the Forest Supervisor or District Ranger having administrative responsibility over the land on which the claim is located.

## WHEN I LOCATE A MINING CLAIM IN A WILDERNESS AND FILE A NOTICE OF LOCATION WITH THE FOREST SERVICE, WILL MY CLAIM BE EXAMINED AUTOMATICALLY?

Mining claims will not be examined unless a permit is requested for prospecting or mining, or unauthorized activity is taking place in conjunction with the claim.

**Eagle Cap Wilderness**

**Strawberry Mtn. Wilderness**

## AFTER I HAVE LOCATED A MINING CLAIM IN A WILDERNESS, MAY I USE A HELICOPTER FOR TRANSPORTATION OF EQUIPMENT OR MEN TO MY MINING CLAIM AND USE MECHANIZED EQUIPMENT FOR EXPLORATION ON MY CLAIM?

The use of a helicopter or other form of mechanized transportation or mechanized equipment of any kind in conjunction with a mining claim must be shown to be *essential* to the exploration of a claim, provided the mineral showing and/or geological information within the claim is such that there is a reasonable chance that a valuable mineral deposit will be discovered. The use of mechanical transportation or equipment is not permissible if the only reason is that such use is more economic than hand methods. A permit from the Forest Service is required.

## WHAT IS MEANT BY MECHANICAL EQUIPMENT?

Any equipment not powered by man or animal, except such small contrivances as a battery-powered geiger counter, flashlight, or radio.

## DO I HAVE THE RIGHT OF ACCESS TO MY MINING CLAIM?

Under the provisions of the Wilderness Act, you are entitled to appropriate access to your claim if it is determined to be a valid claim or if the mineral indications are such that it is reasonable to expect that further work will demonstrate the validity of the claim. The access will be dependent on what is logical or necessary to accomplish the work contemplated on the mining claim. A permit from the Forest Service is required.

## IF I BELIEVE I NEED A ROAD TO MY CLAIM, HOW DO I GO ABOUT OBTAINING PERMISSION OR AUTHORIZATION TO BUILD THE ROAD?

You must file with the concerned Forest Supervisor or District Ranger an application to construct a road to your mining claim, together with a plat showing the location of the claim, proposed road, and description of the type and standard of the road.

## DO I HAVE ANY ASSURANCE THAT I WILL BE AUTHORIZED TO BUILD THE ROAD?

No. You will be permitted to build the road *only* if it is shown to be essential to the mineral development or operation of your claim.

**MAY I COMMENCE DEVELOPMENT OR OPERATION OF MY MINING CLAIM INVOLVING MECHANICAL EQUIPMENT, TRANSPORTATION, OR EXCAVATION IN EXCESS OF 200 CUBIC FEET, OR CUT TIMBER ON THE CLAIM ANY TIME I WANT?**

No. Prior to starting anything of this nature, you must file with the Forest Supervisor or District Ranger a written notice of your intended activity on the claim. If within 20 days after such notice the Forest Service does not require that you furnish operating plans or accept a permit governing such operation, you may commence operation, development, or timber cutting.

**SUPPOSE I HAVE EXPOSED A VALUABLE MINERAL DEPOSIT AND I WANT TO START A MINING OPERATION ON MY MINING CLAIM, DO I HAVE TO OBTAIN PERMISSION TO BUILD A ROAD AND USE MECHANICAL EQUIPMENT?**

You must proceed in the manner described above. A permit is required. Applications for permits are available at the Ranger Districts' and Forest Supervisors' offices.

**IF I MAKE A DISCOVERY OF A VALUABLE MINERAL DEPOSIT IN AN ESTABLISHED WILDERNESS AND I MEET THE REQUIREMENTS FOR PATENT AS PRESCRIBED BY THE MINING LAWS, CAN I TAKE MY CLAIM TO PATENT?**

Yes. However, the patent conveys title only to the mineral deposit and the use of as much of the surface as is necessary for mining or processing operations. The title to the timber remains with the United States, subject to your right to cut and use timber for mining purposes.

**WHAT RIGHTS DO I HAVE UNDER THE MINING LAWS IF I HAVE A MINING CLAIM THAT HAD VALIDITY PRIOR TO INCLUSION OF THE NATIONAL FOREST LAND IN A WILDERNESS?**

You are accorded the rights provided by the U.S. mining laws as then applicable to the National Forest land involved.

**WHAT RIGHTS DO I HAVE UNDER THE MINING LAWS IF I ESTABLISHED THE VALIDITY OF MY MINING CLAIMS AFTER THE ESTABLISHMENT OF A WILDERNESS?**

You have the rights provided by the U.S. mining laws as applicable to National Forest lands but also subject to provisions specified in the legislation establishing the Wilderness.

## WHEN I HAVE FINISHED PROSPECTING OR WORKING MY CLAIM AND NO LONGER HAVE NEED FOR THE EXCAVATIONS OR IMPROVEMENTS MADE OR PLACED THERE BY ME, DO I HAVE ANY OBLIGATIONS TO REHABILITATE THE AREA?

Yes. On claims established prior to and for claims located after the date the land was included within the National Wilderness Preservation System, claimants shall, as directed by the Forest Service, take all reasonable measures to remove improvements no longer needed for mining purposes and which were installed after the land was designated by Congress as Wilderness, and restore, as near as practicable, the original contour of the land surface and revegetate or otherwise prevent or control soil erosion.

## DOES THE DEPARTMENT OF THE INTERIOR HAVE ANYTHING TO DO WITH MINING CLAIMS LOCATED IN WILDERNESS?

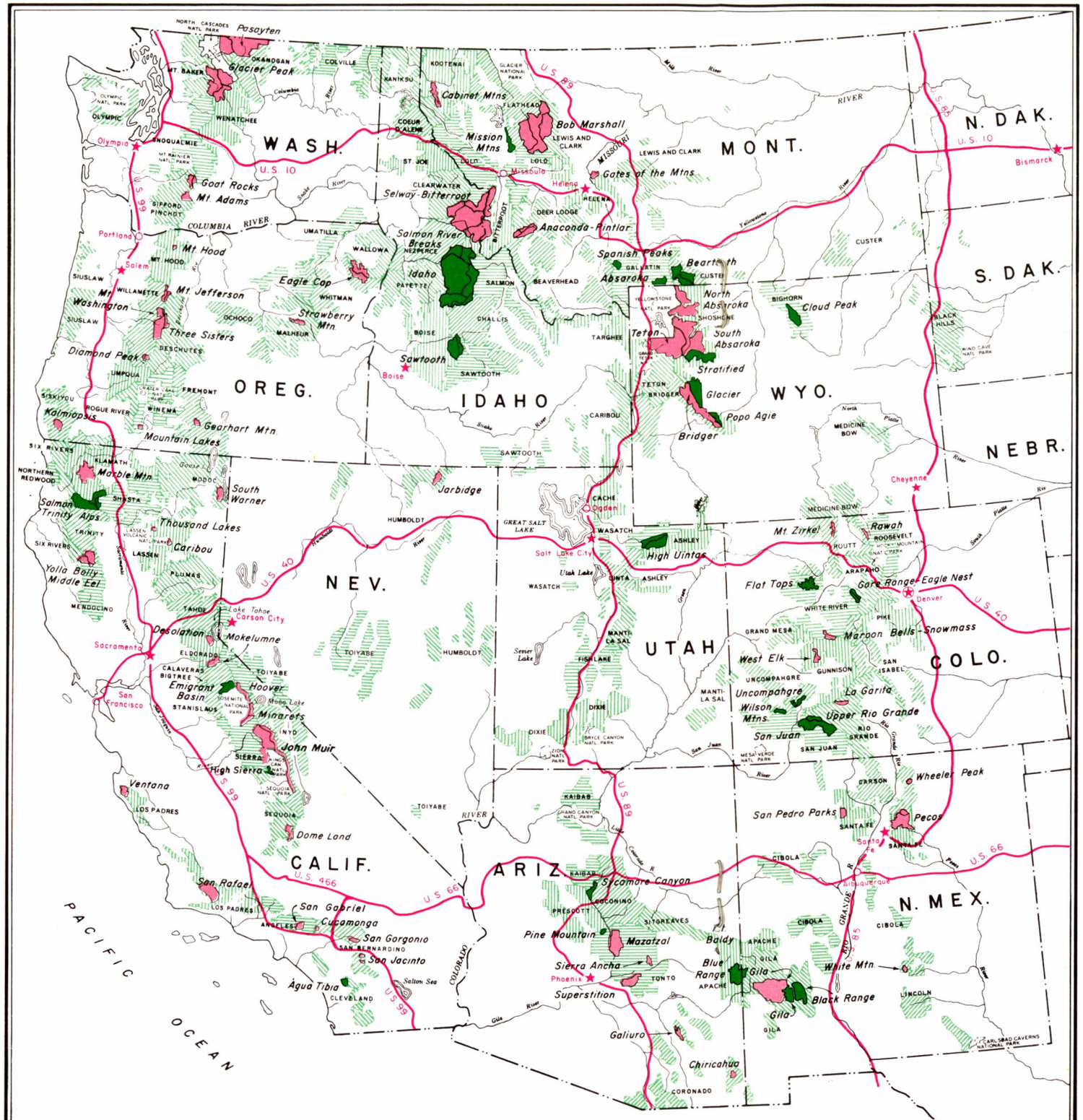
Yes. It has the responsibility of the administration of the mining law in regard to matters of service of complaints and the holding and adjudication of hearings involving validity of mining claims. The general mining laws, subject to certain conditions specified in the Wilderness Act, are applicable to Wildernesses.

## WHAT IS THE ROLE OF THE FOREST SERVICE IN REGARD TO MINING CLAIMS IN WILDERNESSES?

The Forest Service through its mining engineers must determine if the requirements of the mining laws and the Wilderness Act are being observed. It will work with mining claimants to uphold the intent of these laws. On the other hand, if the laws are violated, the Forest Service will initiate proceedings either in the Department of the Interior or in Federal Court.

## WHAT IS MEANT BY A PRIMITIVE AREA?

Primitive Areas were established under Regulations of the Secretary of Agriculture or the Chief of the Forest Service (See CFR 251.86). The Wilderness Act, PL 88-577, Sec. 3 (b), provides that the Secretary . . . "shall, within ten years after the enactment of this Act, review, as to its suitability or nonsuitability for preservation as wilderness, each area in the national forests classified on the effective date of this Act . . . as 'primitive' and report his findings to the President." The Act further states, "Areas classified as 'primitive' on the effective date of this Act shall continue to be administered under the rules and regulations affecting such areas on the effective date of this Act until Congress has determined otherwise." Parties interested in mining in these areas should check with the appropriate Regional Office (see listing on page 12) or the local Forest Supervisor.




# National Forest Wildernesses and Primitive Areas West of the Mississippi.

**(Information in this booklet is applicable to areas shown.)**

- WILDERNESSES (UNITS OF THE NATIONAL WILDERNESS PRESERVATION SYSTEM)
- PRIMITIVE AREAS
- NATIONAL FORESTS AND PURCHASE UNITS
- ★ STATE CAPITALS
- ○ REGIONAL HEADQUARTERS

Scale - miles

0 50 100 150 200

## National Forest Areas in the National Wilderness Preservation System (W) and Primitive Areas (P) under Study for Inclusion in the System

### Northern Region (1)

Federal Bldg.
Missoula, Mont. 59801

Absaroka (P)
Anaconda-Pintlar (W)
Beartooth (P)
Bob Marshall (W)
Cabinet Mountains (W)
Gates of the Mountains (W)
Mission Mountains (P)
Salmon River Breaks (P)
Selway-Bitterroot (W)
Spanish Peaks (P)

### Rocky Mountain Region (2)

Federal Center, Bldg. 85
Denver, Colo. 80225

Cloud Peak (P)
Flat Tops (P)
Glacier (P)
Gore Range-Eagle Nest (P)
La Garita (W)
Maroon Bells Snowmass (W)
Mt. Zirkel (W)
North Absaroka (W)
Pogo Agie (P)
Rawah (W)
San Juan (P)
South Absaroka (W)
Stratified (P)
Uncompahgre (P)
Upper Rio Grande (P)
West Elk (W)
Wilson Mountains (P)

### Southwestern Region (3)

Federal Bldg., 517 Gold Ave. SW.
Albuquerque, N. Mex. 87101

Black Range (P)
Blue Range (P)
Chiricahua (W)
Galiuro (W)
Gila (W & P)
Mazatzal (W)
Mount Baldy (W)
Pecos (W)
Pine Mountain (P)
San Pedro Parks (W)
Sierra Ancha (W)
Superstition (W)
Sycamore Canyon (P)
Wheeler Peak (W)
White Mountain (W)

### Intermountain Region (4)

Federal Office Bldg.
Ogden, Utah 84401

Bridger (W)
High Uintas (P)
Hoover (also in Region 5) (W)
Idaho (P)
Jarbidge (W)
Sawtooth (P)
Teton (W)

### California Region (5)

630 Sansome St.
San Francisco, Calif. 94111

Agua Tibia (P)
Caribou (W)
Cucamonga (W)
Desolation (W)
Dome Land (W)
Emigrant Basin (P)
High Sierra (P)
Hoover (also in Region 4) (W)
John Muir (W)
Marble Mountain (W)
Minarets (W)
Mokelumme (W)
Salmon Trinity Alps (P)
San Gabriel (W)
San Gorgonio (W)
San Jacinto (W)
San Rafael (W)
South Warner (W)
Thousand Lakes (W)
Ventana (W)
Yolla Bolly-Middle Eel (W)

### Pacific Northwest Region (6)

Post Office Box 3623
319 SW. Pine St.
Portland, Oreg. 97208

Diamond Peak (W)
Eagle Cap (W)
Gearhart Mountain (W)
Glacier Peak (W)
Goat Rocks (W)
Kalmiopsis (W)
Mount Adams (W)
Mount Hood (W)
Mount Jefferson (W)
Mount Washington (W)
Mountain Lakes (W)
Pasayten (W)
Strawberry Mountain (W)
Three Sisters (W)

## Excerpts from The Wilderness Act

Public Law 88-577
88th Congress, S. 4
September 3, 1964

# An Act

To establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Wilderness Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Wilderness Act".

WILDERNESS SYSTEM ESTABLISHED STATEMENT OF POLICY

SEC. 2. (a) In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as "wilderness areas", and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness; and no Federal lands shall be designated as "wilderness areas" except as provided for in this Act or by a subsequent Act.

(b) The inclusion of an area in the National Wilderness Preservation System notwithstanding, the area shall continue to be managed by the Department and agency having jurisdiction thereover immediately before its inclusion in the National Wilderness Preservation System unless otherwise provided by Act of Congress. No appropriation shall be available for the payment of expenses or salaries for the administration of the National Wilderness Preservation System as a separate unit nor shall any appropriations be available for additional personnel stated as being required solely for the purpose of managing or administering areas solely because they are included within the National Wilderness Preservation System.

78 STAT. 890.
78 STAT. 891.

DEFINITION OF WILDERNESS

(c) A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is pro-

tected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

78 STAT. 891.

SEC. 4. PROHIBITION OF CERTAIN USES 78 STAT. 894.

(c) Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

SPECIAL PROVISIONS

(d) The following special provisions are hereby made:

(1) Within wilderness areas designated by this Act the use of aircraft or motorboats, where these uses have already become established, may be permitted to continue subject to such restrictions as the Secretary of Agriculture deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

(2) Nothing in this Act shall prevent within national forest wilderness areas any activity, including prospecting, for the purpose of gathering information about mineral or other resources, if such activity is carried on in a manner compatible with the preservation of the wilderness environment. Furthermore, in accordance with such program as the Secretary of the Interior shall develop and conduct in consultation with the Secretary of Agriculture, such areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress.

(3) Notwithstanding any other provisions of this Act, until midnight December 31, 1983, the United States mining laws and all laws pertaining to mineral leasing shall, to the same extent as applicable prior to the effective date of this Act, extend to those national forest lands designated by this Act as "wilderness areas"; subject, however, to such reasonable regulations governing ingress and egress as may be prescribed by the Secretary of Agriculture consistent with the use of the land for mineral location and development and exploration, drilling, and production, and use of land for transmission lines, waterlines, telephone lines, or facilities necessary in exploring, drilling, producing, mining, and processing operations, including where essential the use of mechanized ground or air equipment and restoration as near as practicable of the surface of the land disturbed in performing

Mineral leases, claims, etc.

prospecting, location, and, in oil and gas leasing, discovery work, exploration, drilling, and production, as soon as they have served their purpose. Mining locations lying within the boundaries of said wilderness areas shall be held and used solely for mining or processing operations and uses reasonably incident thereto; and hereafter, subject to valid existing rights, all patents issued under the mining laws of the United States affecting national forest lands designated by this Act as wilderness areas shall convey title to the mineral deposits within the claim, together with the right to cut and use so much of the mature timber therefrom as may be needed in the extraction, removal, and beneficiation of the mineral deposits, if needed timber is not otherwise reasonably available, and if the timber is cut under sound principles of forest management as defined by the national forest rules and regulations, but each such patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except as otherwise expressly provided in this Act: *Provided*, That, unless hereafter specifically authorized, no patent within wilderness areas designated by this Act shall issue after December 31, 1983, except for the valid claims existing on or before December 31, 1983. Mining claims located after the effective date of this Act within the boundaries of wilderness areas designated by this Act shall create no rights in excess of those rights which may be patented under the provisions of this subsection. Mineral leases, permits, and licenses covering lands within national forest wilderness areas designated by this Act shall contain such reasonable stipulations as may be prescribed by the Secretary of Agriculture for the protection of the wilderness character of the land consistent with the use of the land for the purposes for which they are leased, permitted, or licensed. Subject to valid rights then existing, effective January 1, 1984, the minerals in lands designated by this Act as wilderness areas are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

78 STAT. 894.
78 STAT. 895.

78 STAT. 896.
78 STAT. 897.

STATE AND PRIVATE LANDS WITHIN WILDERNESS AREAS

SEC. 5. (a) In any case where State-owned or privately owned land is completely surrounded by national forest lands within areas designated by this Act as wilderness, such State or private owner shall be given such rights as may be necessary to assure adequate access to such State-owned or privately owned land by such State or private owner and their successors in interest, or the State-owned land or privately owned land shall be exchanged for federally owned land in the same State of approximately equal value under authorities available to the Secretary of Agriculture: *Provided*, *however*, That the United States shall not transfer to a State or private owner any mineral interests unless the State or private owner relinquishes or causes to be relinquished to the United States the mineral interest in the surrounded land.

Transfers, restriction.

(b) In any case where valid mining claims or other valid occupancies are wholly within a designated national forest wilderness area, the Secretary of Agriculture shall, by reasonable regulations consistent with the preservation of the area as wilderness, permit ingress and egress to such surrounded areas by means which have been or are being customarily enjoyed with respect to other such areas similarly situated.

**§ 251.75 Commercial enterprises, roads, motor vehicles, motorized equipment, motorboats, aircraft, aircraft landing facilities, airdrops, structures, and cutting of trees.**

Except as provided in the Wilderness Act, subsequent legislation establishing a particular Wilderness unit, or §§ 251.27, 251.28, and 251.30, paragraphs (c) and (d) of this section, and §§ 251.76, 251.77, and 251.81 through 251.85, inclusive, and subject to existing rights, there shall be in National Forest Wilderness no commercial enterprises; no temporary or permanent roads; no aircraft landing strips; no heliports or helispots; no use of motor vehicles, motorized equipment, motorboats, or other forms of mechanical transport; no landing of aircraft; no dropping of materials, supplies, or persons from aircraft; no structures or installations; and no cutting of trees for nonwilderness purposes.

(a) "Mechanical transport," as herein used, shall include any contrivance which travels over ground, snow, or water on wheels, tracks, skids, or by floatation and is propelled by a nonliving power source contained or carried on or within the device.

(b) "Motorized equipment," as herein used, shall include any machine activated by a nonliving power source, except that small battery-powered, hand-carried devices such as flashlights, shavers, and Geiger counters are not classed as motorized equipment.

(c) The Chief, Forest Service, may authorize occupancy and use of National Forest land by officers, employees, agencies, or agents of the Federal, State, and county governments to carry out the purposes of the Wilderness Act and will prescribe conditions under which motorized equipment, mechanical transport, aircraft, aircraft landing strips, heliports, helispots, installations, or structures may be used, transported, or installed by the Forest Service and its agents and by other Federal, State, or county agencies or their agents, to meet the minimum requirements for authorized activities to protect and administer the Wilderness and its resources. The Chief may also prescribe the conditions under which such equipment, transport, aircraft, installations, or structures may be used in emergencies involving the health and safety of persons, damage to property, or other purposes.

(d) The Chief, Forest Service, may permit, subject to such restrictions as he deems desirable, the landing of aircraft and the use of motorboats at places within any Wilderness where these uses were established prior to the date the Wilderness was designated by Congress as a unit of the National Wilderness Preservation System. The Chief may also permit the maintenance of aircraft landing strips, heliports, or helispots which existed when the Wilderness was designated by Congress as a unit of the National Wilderness Preservation System.

**§ 251.76 Grazing of livestock.**

(a) The grazing of livestock, where such use was established before the date of legislation which includes an area in the National Wilderness Preservation System, shall be permitted to continue under the general regulations covering grazing of livestock on the National Forests and in accordance with special provisions covering grazing use in units of National Forest Wilderness which the Chief of the Forest Service may prescribe for general application in such units or may arrange to have prescribed for individual units.

(b) The Chief, Forest Service, may permit, subject to such conditions as he deems necessary, the maintenance, reconstruction, or relocation of those livestock management improvements and structures which existed within a Wilderness when it was incorporated into the National Wilderness Preservation System. Additional improvements or structures may be built when necessary to protect wilderness values.

**§ 251.77 Permanent structures and commercial services.**

Motels, summer homes, stores, resorts, organization camps, hunting and fishing lodges, electronic installations, and similar structures and uses are prohibited in National Forest Wilderness. The Chief, Forest Service, may permit temporary structures and commercial services within National Forest Wilderness to the extent necessary for realizing the recreational or other wilderness purposes, which may include, but are not limited to, the public services generally offered by packers, outfitters, and guides

**§ 251.78 Poisons and herbicides.**

Poisons or herbicides will not be used to control wildlife, fish, insects, or plants within any Wilderness except by or under

the direct supervision of the Forest Service or other agency designated by the Chief, Forest Service; however, the personal use of household-type insecticides by visitors to provide for health and sanitation is specifically excepted from this prohibition.

**§ 251.79 Jurisdiction over wildlife and fish.**

Nothing in the regulations in this part shall be construed as affecting the jurisdiction or responsibility of the several States with respect to wildlife and fish in the National Forests.

**§ 251.80 Water rights.**

Nothing in the regulations in this part constitutes an expressed or implied claim or denial on the part of the Department of Agriculture as to exemption from State water laws.

**§ 251.81 Access to surrounded State and private lands.**

States or persons, and their successors in interest, who own land completely surrounded by National Forest Wilderness shall be given such rights as may be necessary to assure adequate access to that land. "Adequate access" is defined as the combination of routes and modes of travel which will, as determined by the Forest Service, cause the least lasting impact on the primitive character of the land and at the same time will serve the reasonable purposes for which the State and private land is held or used. Access by routes or modes of travel not available to the general public under the regulations in this part shall be given by written authorization issued by the Forest Service. The authorization will prescribe the means and the routes of travel to and from the privately owned or State-owned land which constitute adequate access and the conditions reasonably necessary to preserve the National Forest Wilderness.

**§ 251.82 Access to valid mining claims or valid occupancies.**

Persons with valid mining claims or other valid occupancies wholly within National Forest Wilderness shall be permitted access to such surrounded claims or occupancies by means consistent with the preservation of National Forest Wilderness which have been or are being customarily used with respect to other such claims or occupancies surrounded by National Forest Wilderness. The Forest Service will, when appropriate, issue permits which shall prescribe the routes of travel to and from the surrounded claims or occupancies, the mode of travel, and other conditions reasonably necessary to preserve the National Forest Wilderness.

**§ 251.83 Mining, mineral leases, and mineral permits.**

Notwithstanding any other provisions of the regulations in this part, the U.S. mining laws and all laws pertaining to mineral leasing shall extend to each National Forest Wilderness for the period specified in the Wilderness Act or subsequent establishing legislation to the same extent they were applicable prior to the date the Wilderness was designated by Congress as a part of the National Wilderness Preservation System.

(a) Whoever hereafter locates a mining claim in National Forest Wilderness shall within 30 days thereafter file a written notice of his Post Office address and the location of that mining claim in the office of the Forest Supervisor or District Ranger having jurisdiction over the National Forest land on which the claim is located.

(b) Holders of unpatented mining claims validly established on any National Forest Wilderness prior to inclusion of such unit in the National Wilderness Preservation System shall be accorded the rights provided by the U.S. mining laws as then applicable to the National Forest land involved. Persons locating mining claims in any unit of National Forest Wilderness on or after the date on which the said unit was included in the National Wilderness Preservation System shall be accorded the rights provided by the U.S. mining laws as applicable to the National Forest land involved and subject to provisions specified in the establishing legislation. All claimants shall comply with reasonable conditions prescribed by the Chief, Forest Service, for the protection of National Forest resources in accordance with the general purposes of maintaining the National Wilderness Preservation System unimpaired for future use and enjoyment as wilderness and so as to provide for the preservation of its wilderness character; and a performance bond may be required.

(1) Prior to commencing operation or development of any mining claim, or to cutting timber thereon, mining claimants shall file written notice in the office of the Forest Supervisor or District Ranger

having jurisdiction over the land involved. Unless within 20 days after such notice is given the Forest Service requires the claimant to furnish operating plans or to accept a permit governing such operations, he may commence operation, development, or timber cutting.

(2) No claimant shall construct roads across National Forest Wilderness unless authorized by the Forest Service. Application to construct a road to a mining claim shall be filed with the Forest Service and shall be accompanied by a plat showing the location of the proposed road and by a description of the type and standard of the road. The Chief, Forest Service, shall, when appropriate, authorize construction of the road as proposed or shall require such changes in location and type and standard of construction as are necessary to safeguard the National Forest resources, including wilderness values, consistent with the use of the land for mineral location, exploration, development, drilling, and production and for transmission lines, waterlines, telephone lines, and processing operations, including, where essential, the use of mechanical transport, aircraft or motorized equipment.

(3) Claimants shall cut timber on mining claims within National Forest Wilderness only for the actual development of the claim or uses reasonably incident thereto. Any severance or removal of timber, other than severance or removal to provide clearance, shall be in accordance with sound principles of forest management and in such a manner as to minimize the adverse effect on the wilderness character of the land.

(4) All claimants shall, in developing and operating their mining claims, take those reasonable measures, including settling ponds, necessary for the disposal of tailings, dumpage, and other deleterious materials or substances to prevent obstruction, pollution, excessive siltation, or deterioration of the land, streams, ponds, lakes, or springs, as may be directed by the Forest Service.

(5) On mining claims validly established prior to inclusion of the land within the National Wilderness Preservation System, claimants shall, as directed by the Forest Service and if application for patent is not pending, take all reasonable measures to remove any improvements no longer needed for mining purposes and which were installed after the land was designated by Congress as Wilderness and, by appropriate treatment, restore, as nearly as practicable, the original contour of the surface of the land which was disturbed subsequent to the date this section is adopted and which is no longer needed in performing location, exploration, drilling, and production and promote its revegetation by natural means. On such part of the claim where restoration to approximately the original contour is not feasible, restoration for such part shall provide a combination of bank slopes and contour gradient conducive to soil stabilization and revegetation by natural means.

(6) On claims validly established after the date the land was included within the National Wilderness Preservation System, claimants shall, as directed by the Forest Service, take all reasonable measures to remove improvements no longer needed for mining purposes and, by appropriate treatment, restore, as near as practicable, the original contour of the surface of the land which was disturbed and which is no longer needed in performing location and exploration, drilling and production, and to revegetate and to otherwise prevent or control accelerated soil erosion.

(c) The title to timber on patented claims validly established after the land was included within the National Wilderness Preservation System remains in the United States, subject to a right to cut and use timber for mining purposes. So much of the mature timber may be cut and used as is needed in the extraction, removal, and beneficiation of the mineral deposits, if needed timber is not otherwise reasonably available. The cutting shall comply with the requirements for sound principles of forest management as defined by the National Forest rules and regulations and set forth in stipulations issued by the Chief, Forest Service, which as a minimum incorporate the following basic principles of forest management:

(1) Harvesting operations shall be so conducted as to minimize soil movement and damage from water runoff; and

(2) Slash shall be disposed of and other precautions shall be taken to minimize damage from forest insects, disease, and fire.

(d) Mineral leases, permits, and licenses covering lands within National Forest Wilderness will contain reasonable stipulations for the protection of the wilderness character of the land consistent with the use of the land for purposes for which they are leased, permitted, or licensed. The Chief, Forest

Service, shall specify the conditions to be included in such stipulations.

(e) Permits shall not be issued for the removal of mineral materials commonly known as "common varieties" under the Materials Act of July 31, 1947, as amended and supplemented (30 U.S.C. 601–604).

### § 251.84 Prospecting for minerals and other resources.

The Chief, Forest Service, shall allow any activity, including prospecting, for the purpose of gathering information about minerals or other resources in National Forest Wilderness except that any such activity for gathering information shall be carried on in a manner compatible with the preservation of the wilderness environment, and except, further, that:

(a) No person shall have any right or interest in or to any mineral deposits which may be discovered through prospecting or other information-gathering activity after the legal date on which the United States mining laws and laws pertaining to mineral leasing cease to apply to the specific Wilderness, nor shall any person after such date have any preference in applying for a mineral lease, license, or permit.

(b) No overland motor vehicle or other form of mechanical overland transport may be used in connection with prospecting for minerals or any activity for the purpose of gathering information about minerals or other resources except as authorized by the Chief, Forest Service.

(c) Any person desiring to use motorized equipment, to land aircraft, or to make substantial excavations for mineral prospecting or for other purposes shall apply in writing to the office of the Forest Supervisor or District Ranger having jurisdiction over the land involved. Excavations shall be considered "substantial" which singularly or collectively exceed 200 cubic feet within any area which can be bounded by a rectangle containing 20 surface acres. Such use or excavation may be authorized by a permit issued by the Forest Service. Such permits may provide for the protection of National Forest resources, including wilderness values, protection of the public, and restoration of disturbed areas, including the posting of performance bonds.

(d) Prospecting for water resources and the establishment of new reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest and the subsequent maintenance of such facilities, all pursuant to section 4(d)(4)(1) of the Wilderness Act, will be permitted when and as authorized by the President.

### § 251.86 National Forest Primitive Areas.

(a) Within those areas of National Forests classified as "Primitive" on the effective date of the Wilderness Act, September 3, 1964, there shall be no roads or other provision for motorized transportation, no commercial timber cutting, and no occupancy under special-use permit for hotels, stores, resorts, summer homes, organization camps, hunting and fishing lodges, or similar uses: *Provided*, That existing roads over National Forest lands reserved from the public domain and roads necessary for the exercise of a statutory right of ingress and egress may be allowed under appropriate conditions determined by the Chief, Forest Service.

(b) Grazing of domestic livestock, development of water storage projects which do not involve road construction, and improvements necessary for the protection of the National Forests may be permitted, subject to such restrictions as the Chief, Forest Service, deems desirable. Within Primitive Areas, when the use is for other than administrative needs of the Forest Service, use by other Federal agencies when authorized by the Chief, and in emergencies, the landing of aircraft and the use of motorboats are prohibited on National Forest land or water unless such use by aircraft or motorboats has already become well established, the use of motor vehicles is prohibited, and the use of other motorized equipment is prohibited except as authorized by the Chief. These restrictions are not intended as limitations on statutory rights of ingress and egress or of prospecting, locating, and developing mineral resources.

(78 Stat. 890, 16 U.S.C. 1131–1136; 74 Stat. 215, 16 U.S.C. 528–531) [31 F.R. 7902, June 3, 1966]



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